

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

SPECIAL ORDER BY CONSENT

ISSUED TO

STONEBROOK SWIM AND RACQUET CLUB

(VPDES Permit No. VA0088722)

SECTION A: Purpose

This is a Special Order by consent issued under the authority of Va. Code § 62.1-44.15(8a) and 8(d) between the State Water Control Board and Stonebrook Swim and Racquet Club to resolve certain violations of environmental laws and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 62.1-44.7 and 10.1-1184.
3. "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the DEQ.
5. "VRO" means the Valley Regional Office of the DEQ.

6. "SSRC" means the Stonebrook Swim and Racquet Club, a privately held interest located at Winchester, Virginia.
7. "VPDES" means the Virginia Pollutant Discharge Elimination System.
8. "VPDES Permit Regulation" means 9 VAC 25-31-10 *et seq.*
9. "the Permit" means VPDES Permit No. VA0088722 issued to SSRC on November 21, 1999.
10. "Order" means this document, also known as a Consent Special Order.
11. "NOV" means Notice of Violation.
12. "STP" or "the Facility" means the sewage treatment plant serving SSRC.
13. "DMR" means Discharge Monitoring Report.

SECTION C: Findings of Fact and Conclusions of Law

1. The SSRC is a privately held recreational facility located at 2342 Jones Road, Winchester, Virginia. The SSRC is the subject of the Permit. The Permit authorizes SSRC to discharge treated domestic sewage from the STP into Opequon Creek, Potomac River subbasin, Potomac River basin.
2. On October 10, 2001, and on October 31, 2001, staff of DEQ's Valley Regional Office conducted inspections of the STP. Based on these inspections and a review of DEQ's files for the Facility, on December 6, 2001, DEQ issued NOV No. W2001-12-V-0001 to SSRC citing the following apparent violations of the Permit, the Permit Regulation and the Va. Code:
 - a. Improper operation and maintenance of the STP in apparent violation of Part II.Q and Part II.L of the Permit and 9 VAC 25-31-190.A of the Board's VPDES Permit Regulation:
 - (i) Improper installation of the chemical tablet feeders ¹;
 - (ii) Lack of maintenance of the intermittent sand filters;
 - (iii) Water was observed leaking out of the chlorine contact tank into the ground near the tablet feeder; and,

- (iv) Absence of tablets in the chemical tablet feeders.

¹ NOTE: This violation was not documented during a previous inspection of the STP conducted by DEQ on June 3, 1998.

- b. Inadequate disinfection of effluent in apparent violation of Part I.B.3 and Part II.L of the Permit and 9 VAC 25-31-190.A of the Board's VPDES Permit Regulation:
 - (i) DEQ sampled the effluent after the chlorine contact tank and recorded total residual chlorine values of 0.00 mg/l on October 10, 2001, and 0.17 mg/l on October 31, 2001. Part I.B.3 of the Permit requires that no total residual chlorine sample collected after the chlorine contact tank, prior to dechlorination, shall be less than 0.6 mg/l.
- c. Improper reporting of monitoring results in apparent violation of Part I.C and Part II.L of the Permit and 9 VAC 25-31-190.A of the Board's VPDES Permit Regulation:
 - (i) SSRC is improperly using an outdated DMR form instead of using the DMR which was included with the Permit when reissued on November 21, 1999; and,
 - (ii) Based on observations made by the DEQ inspector and a review of SSRC's monitoring data for the month of October 2001, SSRC is improperly reporting data on its DMR.
- 3. On December 20, 2001, representatives of DEQ and SSRC met in an informal settlement conference to discuss the apparent violations cited in NOV No. W2001-12-V-0001. During the conference, the SSRC representative provided a plan and schedule of corrective actions designed to return the STP to compliance with the Permit, the Permit Regulation and the Va. Code. Portion of the plan and schedule have been incorporated into Appendix A of the Order.
- 4. SSRC was previously party to a July 20, 1999, Letter of Agreement with DEQ. The Letter of Agreement also addressed operational, monitoring and reporting deficiencies at the STP documented by DEQ in Letters of Noncompliance and NOV's issued to SSRC between April 11, 1996, and March 31, 1999.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a) and (8d), orders SSRC, and SSRC agrees:

- 1. To perform the actions described in Appendix A of this Order; and,

2. To pay a civil charge of **\$2,100** within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be by check, certified check, money order, or cashier's check payable to ATreasurer of Virginia@ and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

SSRC shall include its Federal Identification Number with the civil charge payment and shall note on the check that the payment is being made pursuant to this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of SSRC, for good cause shown by SSRC, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, SSRC admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. SSRC consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. SSRC declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by SSRC to comply with any of the terms of this Order shall constitute a violation of an

order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. SSRC shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. SSRC shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. SSRC shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and,
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and SSRC. Notwithstanding the foregoing, SSRC agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to SSRC. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve SSRC from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, SSRC voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2002.

Robert G. Burnley, Director
Department of Environmental Quality

SSRC voluntarily agrees to the issuance of this Order.

By: _____

Date: _____

Commonwealth of Virginia

City/County of _____

The foregoing document was signed and acknowledged before me this _____ day of _____, 2002, by _____, who is _____ (name) _____ of Stonebrook Swim and Racquet Club. _____ (title)

Notary Public

My commission expires: _____.

APPENDIX A
SCHEDULE OF COMPLIANCE

STONEBROOK SWIM AND RACQUET CLUB

1. By December 31, 2001, SSRC shall hire a Class 2 Operator to oversee operation of the STP on a minimum frequency of three days per week. The Class 2 Operator shall also collect samples required by the Permit on the days when he or she is present. Commencing with the DMR submitted for the month of January 2002, SSRC's Class 2 Operator shall prepare and sign the DMR for the Facility.
2. By December 31, 2001, SSRC's Class 2 Operator shall have trained a least three other SSRC employees to take samples required by the Permit on those days when the Class 2 Operator is not present.
3. By December 31, 2001, SSRC shall remove all vegetation from the STP's filter beds and shall rake the sand level in each filter bed.
4. By January 1, 2002, SSRC shall have all materials in supply to allow for proper testing of the Facility's wastewater as required by the Permit.
5. By April 30, 2002, SSRC shall complete replacement of the existing chlorine contact tank with the new two-chamber fiberglass unit approved by DEQ by letter dated February 13, 2002.
6. By April 30, 2002, SSRC shall re-set the Facility's chlorination and dechlorination units in accordance with the manufacturer's specifications and recommendations.
7. By April 30, 2002, SSRC shall install a gate to the Facility's filter beds to allow for ease of operator access to the filter beds.
8. By April 30, 2002, SSRC shall install steps along the slope to Outfall 001 to allow for ease of access to the outfall.
9. By April 30, 2002, SSRC shall remove the old liquid treatment chemical feeder system from the Facility.